

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION

ROBERT LEE DELOACH

PETITIONER

V.

CIVIL ACTION NO. 1:05CV23-D-D

LAWRENCE KELLY; et al.

RESPONDENTS

**ORDER DENYING SUMMARY JUDGMENT**

On consideration of the file and records in this action, and on the Petitioner's motion for default or summary judgment, the Court finds that the Report and Recommendation of the United States Magistrate Judge has been duly served by first class mail upon the plaintiff and the attorneys for the defendants; that more than ten days have elapsed since service of said Report and Recommendation; and that no objection thereto has been filed or served by said parties. The Court is of the opinion that the Report and Recommendation should be approved and adopted as the opinion of the Court. It is, therefore

**ORDERED:**

1. That the Report and Recommendation of the United States Magistrate Judge (docket entry 20), be, and it is hereby, approved and adopted, and that the proposed findings of fact and conclusions of law therein set out be, and they are hereby, adopted as the findings of fact and conclusions of law of the Court.
2. That the Petitioner's motion for default or summary judgment (docket entry 16) be and hereby is **denied**.

THIS the 24<sup>th</sup> day of March, 2006.

/s/ Glen H. Davidson  
Chief Judge